

JUL 09 2004 PATENT ATTORNEY DOCKET NO. 01997/198006

Certificate of Mailing: Date of Deposit: October 6, 2003

I hereby certify under 37 C.F.R. § 1.8(a) that this correspondence is being deposited with the United States Postal Service as first class mail with sufficient postage on the date indicated above and is addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Alma Woodberry

Printed name of person mailing correspondence

Signature of person mailing correspondence

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:

H. Robert Horvitz et al.

Art Unit:

1632

Serial No.:

08/984,178

Examiner:

Ram Shukla

Filed:

December 3, 1997

Title:

CLONING SEQUENCING AND CHARACTERIZATION OF TWO

CELL DEATH GENES AND USES THEREFOR

Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450

DECLARATION OF GUY E. BEARDSLEY

- I, Guy E. Beardsley, declare as follows:
- 1. I am a Practice Systems Specialist in the law firm of Clark & Elbing LLP. One of my responsibilities in this position is to ensure that all replies to U.S. Patent and Trademark communications are timely filed.
- 2. All mail sent from the Patent and Trademark Office to any attorney or patent agent at Clark & Elbing LLP is opened, date stamped, and docketed centrally before it is sent to the attorney or patent agent. On July 1, 2003, I printed out a docket record that included all the replies having a final deadline of July 2, 2003. I have reviewed Clark & Elbing LLP's computerized docketing records and find that no reply to a Notice of

Allowance was docketed for July 2, 2003.

3. All statements made herein of my own knowledge are true and all statements made on information and belief are believed to be true; and further these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patents issued thereon.

Respectfully submitted,

Date: October 6, 2003

Guy E. Beardsley

Clark & Elbing LLP 101 Federal Street Boston, MA 02110

Telephone: 617-428-0200 Facsimile: 617-428-7045

JUL 09 2004

ATTORNEY DOCKETNO, 01997/19800

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I hereby certify under 37 C.F.R. § 1.8(a) that this correspondence is being deposited with the United States Postal Service as first class mail with sufficient postage on the date indicated above and is addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Alma Woodberry

Printed name of person mailing correspondence

Signature of person mailing correspondence

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December 3, 1997

Title:

CLONING SEQUENCING AND CHARACTERIZATION OF TWO

CELL DEATH GENES AND USES THEREFOR

Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450

DECLARATION OF KRISTINA BIEKER-BRADY, PH.D.

- I, Kristina Bieker-Brady, declare as follows:
- 1. I am a partner in the law firm of Clark & Elbing LLP and an attorney of record in the above-captioned case.
- 2. I first became aware of the abandonment of the above-captioned application on August 11, 2003, upon receipt of a Notice of Abandonment for failure to pay the issue fee. I submit that the accompanying petition to withdraw the Notice is being promptly submitted as required by 37 C.F.R. § 1.8(b)(1).
- 3. All mail sent from the Patent and Trademark Office to any attorney or patent agent at Clark & Elbing LLP is opened, date stamped, and docketed centrally before it is

sent to the attorney or patent agent. A review of Clark & Elbing's computerized docketing records and the file jacket indicates that the Notice of Allowance was never received. A redacted copy of the docket record showing all replies docketed for July 2, 2003, where the nonreceived Office communication would have been entered had it been received and docketed, is submitted herewith as documentary proof of nonreceipt of the Notice of Allowance.

- 4. On August 21, 2003, in a telephone conference with Examiner Shukla, applicants requested copies of the Notice of Allowance and Notice of Allowability, which were received on August 25, 2003. A review of these documents showed that they were mailed to the incorrect mailing address. Applicants note that the Office was promptly notified of a change in correspondence address in a Preliminary Amendment filed on August 23, 2002. In the Preliminary Amendment, applicants called attention to the fact that a change of address was being made and requested that all future correspondence be mailed to a new correspondence address. A copy of the Preliminary Amendment is submitted herewith.
- 5. All statements made herein of my own knowledge are true and all statements made on information and belief are believed to be true; and further these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States

 Code and that such willful false statements may jeopardize the validity of the application

or any patents issued thereon.

Date: 100

Respectfully submitted,

Kristina Bieker-Brady, Ph.D.

Reg. No. 3/9,109

Clark & Elbing LLP 101 Federal Street Boston, MA 02110

Telephone: 617-428-0200 Facsimile: 617-428-7045

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Tuesday, September 23, 2003	03	Due Date List by Client			0
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Client: <u>00246</u>					
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Tuesday, September 23, 2003	tember	23, 20	03	Due Date Li	ate List by Client	nt			rage: o
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07678- US 2 REPLY	^2-Jun-2003	PTC	aar	gar	02-Jul-2003		Met on:
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08338	US 7 Title: Matter Name:		NOTICE REGARDING CHANGE OF POA	A2-Jul-2003 KBB KBB NOTICE REGARDING CHANGE OF FOA	KBB DING CH	KBB ANGE OF	MJB MJB	MJB 02-Jul-2003 MJB Due Date		Met on: Extend to By:
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08582	wo 1	FILING RECEIPT	^2-Apr-2003 PTC SMM	SMM	SMM 02-Jul-2003	09-Apr-2004	Met on:
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Tuesday, September 23, 2003	, 2003	Due Date 1	Due Date List by Client				rage: 15
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Client: 50026	Shimizu Patent Office						
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50026 US 1	File Petition to Correct	02-May-2003 P	PTC PTC	DOC	02-Jul-2003		Met on:
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50045-TEP 1	Amendments/Corrections to Text	02.Jan-2003 KLE	KLE	02-J KLE Final	02-Jul-2003 Final	·	Met on:
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50045-WW EP 1	Approval - Text 2M EXT	O. Jan-2003 KLE	KLE	02 KLE Fin	02-Jul-2003 Final		Met on:
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Tuesday, September 23, 2003	003	Due Date List by Client	y Client			:	Page: 17
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Tuesday, September 23, 2003	2003	Due Date List by Client	y Client				Page: 18
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Client: 50098	Phoenix International							
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50098 US 1	REPLY 4M EXT	^2-Jan-2003	PTC	PTC	PTC	PTC 02-Jul-2003		Met on:
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Tuesday, September 23, 2003	r 23, 200)3	Due Date List by Client	y Client				Page: 22	
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Tuesday, September 23, 2003		Due Date L	Date List by Client	lient			Page: 23
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Tuesday, September 23, 2003	003	Due Date List by Client			Page: 24
Client: <u>50146</u>	Becker & Associates	#Name? #Name?			
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Tuesday, September 23, 2003	103	Due Date List by Client	y Client				Page: 25
Client: <u>50150</u>	ActivBiotics	#Name?	#Name?				
Matter Number	Reason for Date	Action Type Action Base Date/ Bill Atty Super Atty Atty(s) Date Type	Super Atty	Other Atty(s)	Other Due Date/ Atty(s) Date Type	Final Deadline	Action Taken
S0150 US 3	REPLY	^2-Jun-2003 KLE	KLE	MJB	02-Jul-2003	02-Dec-2003	Met on:
		NOTICE TO FILE MISSING PARTS		MJB	Reminder		Extend to
Title: (Ву:
Matter Name:							
Comments:	•						
50150- WO 2	REPLY	○2-May-2003 KLE	KLE	MJB	02-Jul-2003		Met on:
		THE RO 106 INVITATION TO CORRE		MJB	Extended Due Date		Extend to
							By:
Matter Name:	., .,						

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Chent: 50154 Hubbell, Jeffrey A. Matter Number Reason for Date Action Type Other Date Type 50154 US 2 IDS 0.2.Apr-2003 KBB KBB ICM 0.2.Jul-200 PRIOR ART CITED IN ICM Date Date Type COUNTERPART Tritle: Comments: Comments:	Tuesday, September 23, 2003	Due Date List by Client		Pa	Page: 26
Number Reason for Date Action Base Date/ Bill Atty Super Atty Atty(s) US 2 IDS		#Name?			
US 2 IDS		H	Due Date/ Date Type	Final Deadline Action	Action Taken
	US 2 IDS	3 KBB KBB CCITED IN	02-Jul-2003 Due Date	Met on: Extend to	on:
		F-1		By:	
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Tuesday, September 23, 2003	e List b	Page: 27
Client: 50164 CombinatoRx	#Name? #Name?	
Matter Number Reason for Date	Action Type Action Base Date/ Bill Atty Super Atty Atty(s) Date Type	Final Deadline
50164 US 1 Filing Due	PTC JML JL	02-Jul-2003 Met on:
Tiffe:		By:
S0164- US 1 Foreign Filing Due	32 PTC PTC JML lling JL	02-Jul-2003 Final Extend toBy:
Title: Matter Name: Comments:		
50164-TON I CONVENTION APPLICATION	COLUMI-2002 PTC PTC JML 02-Ju	nl-2003
Title: Matter Name:		By:
Comments:		
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Tuesday, September 23, 2003	03	Due Date List by Client	lient			Page: 28
		#Name? #Name?	ne?			
Client: <u>50164</u>	CombinatoRx				٠	
Matter Number	Reason for Date	Action Type Action Base Date/ Bill Atty Super Atty		Other Due Date/ Atty(s) Date Type	Final Deadline	Action Taken
50164- US 1	UTILITY APPLICATION	02.Jul-2002 PTC PTC	2 JML	02~Jul-2003		Met on:
		TRUNISIONAL APPLICATION	JL	Final		Extend to
Title: 4						By:
Matter Name: Comments:						
50164- US 2	11M FAX	02-Aug-2002 PTC PTC	C MJB	s 02-Jul-2003		Met on:
		ra⊖VISIONAL APPLICATION	ACK	C Due Date		Extend to
. With				fil		By:
Matter Name:						
Comments:						
5 118 2	11M FAX	02-Aug-2002 PTC PTC	C PTC	; 02-Jul-2003		Met on:
		PROVISIONAL APPLICATION	JL	Due Date		Extend to
		and the second s		ا انون		By:
Title:						
Matter Name:						
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Tuesday, September 23, 2003	1003	Due Date List by Client	Page: 29
		HName? #Name?	
Client: 50164	CombinatoRx		
Matter Number	Reason for Date	Action Type Action Base Date/ Bill Atty Super Atty Atty(s) Date Type Deadline	Action Taken
50164- US 2	11M FAX	^2-Aug-2002 PTC PTC MJB 02-Jul-2003	Met on:
		FROVISIONAL APPLICATION JL Due Date	Extend to
Title:	ä		By:
Matter Name: Comments:	: :		

Client: 20165 Biomeasure_Interporated Robance Robance Robance Robance Robance Robance Robance Robance Robance Action Type Action Base Date Bill Alty Super Alty Alty(s) Date Type Deadline Action Taken	HName? HName? HName? HName? HName?	Tucsday, September 23, 2003		Due Date List	ate List by Client				Page: 30
Reason for Date	Reason for Date Action Type Other Due Date Other Due Date Action Base Date Bill Atty Super Atty Atty(s) Date Type Action Base Date Bill Atty Super Atty Atty(s) Date Type Action Base Date Bill Atty Super Atty Atty(s) Date Type Action Base Date Bill Atty Super Atty Atty(s) Date Type Action Base Date Bill Atty Super Atty Atty(s) Date Type Action Base Date Bill Atty Super Atty Atty(s) Date Type Action Base Date Bill Atty Super Atty Atty(s) Date Type Action Base Date Bill Atty Super Atty Atty(s) Date Type Action Base Date Bill Atty Super Atty Atty(s) Date Type Action Base Date Bill Atty Super Atty Atty(s) Date Type Action Base Date Bill Base Date Base Date Bill Base Date Bill Action Base Date Bill Base Date			#Name?	#Name?				
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Tuesday, September 23, 2003	2003	Due Date List by Client	y Client				Page: 31
		#Name?	#Name?				
Client: <u>50206</u>	The G.I. Company						٠
Matter Number	Reason for Date	Action Type Action Base Date/ Bill Atty	Super Atty	Other Due Date/ Atty(s) Date Type	ate/ .ype	Final Deadline	Action Taken
50206-TW 1	REPLY	20-Jun-2003 PTC PTC A SSOCIATE'S LETTER (SUBSTANTIV	PTC BSTANTIV	ACK 02-Jul-2003 Final	-2003		Met on: Extend to
Title: 1	i.						By:
Matter Name: Comments:	;;		g in				
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Tuesday, September 23, 2003		Due Date	List by	Date List by Client				Page: 32
		#Name?		#Name?				
Client: 50218 F	Fahri Saatcioglu							
Matter Number Ro	Reason for Date	Action Type Action Base Date/ Bill Atty Super Atty Atty(s) Date Type	Bill Atty	Super Atty	Other Atty(s)	Other Due Date/ Atty(s) Date Type	Final Deadline	Action Taken
50218-EP 2 Re	Request Examination	^2.Jan-2003	KBB	KBB	MJB	02-Jul-2003		Met on:
		Pequest Examination	uoi			Due Date		Extend to
Title:			Company States		10.00			By:
Matter Name:	· International Control of the Contr		- ,					
Comments:								

Tuesday, September 23, 2003	Due Date List by Client			Page: 33
#Name? Client: 50247 VIRTUAL DRUG DEVELOPMENT, INC.	#Name? #Name?			
Matter Number Reason for Date A	Action Type Action Base Date/ Bill Atty Super Atty Atty(s)	Due Date/	Final Deadline	Action Taken
50247 CA I INSTRUCTIONS TO CPI	27-Feb-2003 PTC JDD JCM	02-Jul-2003 Due Date		Met on: Extend to
Title: Matter Name: Comments:			·	Ву:
ANNUITY PAYMENT	77-Feb-2003 PTC JDD JCM	02~Jul-2003		Met on: Extend to By:
Matter Name: Comments:				
502474 CN 1 DIVISIONAL APPLICATION	13-May-2003 PTC JDD JCM ASSOCIATE'S LETTER (SUBSTANTIV JCM	02-Jul-2003 Final		Met on: Extend to By:
Matter Name: Comments: d				
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Tuesday, September 23, 2003	tember ?	23, 20	03	Due Date List by Client	List by	, Client		-		Page: 34	
Client	Client: <u>50247</u>		#Name? VIRTUAL DRUG DEVELOPMENT, INC.	#Name? ELOPMENT, INC.		#Name?					
Matter Number	iber		Reason for Date	Action Type Action Base Date/ Bill Atty Super Atty Atty(s) Date Type	Bill Atty	Super Atty	Other Atty(s)	Other Due Date/ Atty(s) Date Type	Final Deadline	Action Taken	
50247-	S		ISSUE FEE DUE	1.1-May-2003	PTC	aar	JCM	JCM 02~Jul-2003		Met on:	
				A SSOCIATE'S LET	ITER (SU	LETTER (SUBSTANTIV JCM	JCM	Final		Extend to	(
		Title	e de la communicación de la companya de la company	A CANADA CONTRACTOR OF THE CON						By:	
	Matter Name: Comments:	Vame: nents:					:	·			

Tritle: Figure 23, 2003 Due Date List by Client Final Fage: 35 Final Action Taken Action Taken Final Action Taken			-						
Pharma inc. The Date List by Chient The Confirm Type Eason for Date Action Type Action Type Action Type Action Base Date/Bill Atty Super Atty Atty(s) Date Type The Color Pate The Color Pate The Color Pate Date/Bill Atty Super Atty Atty(s) Date Type The Color Pate Date/Bill Atty Super Atty Atty(s) Date Type The Color Pate Date/Bill Atty Super Atty Atty(s) Date Type The Color Pate Date/Bill Atty Super Atty Atty(s) Date Type The Color Pate Date/Bill Atty Super Atty Atty(s) Date Type The Color Pate Date/Bill Atty Super Atty Atty(s) Date Type The Color Pate Date/Bill Atty Super Atty Atty(s) Date Type The Color Pate Date/Bill Atty Super Atty Atty(s) Date Type The Color Pate Date/Bill Atty Super Atty Atty(s) Date Type The Color Pate Date/Bill Atty Super Atty Atty(s) Date Type The Color Pate Date/Bill Atty Super Atty Atty(s) Date Type The Color Pate Date/Bill Atty Super Atty Atty(s) Date Type The Color Pate Date/Bill Atty Super Atty Atty(s) Date Type The Color Pate Date/Bill Atty Super Atty Atty(s) Date Type The Color Pate Date/Bill Atty Super Atty Atty(s) Date Type The Color Pate Date/Bill Atty Super Atty Atty(s) Date Type The Color Pate Date/Bill Atty Super Atty Atty(s) Date Type The Color Pate Date/Bill Atty Super Atty Supe	Tuesday, Contombor 23	7003		4. 7 4. 1	1 5				Page: 35
Number Reason for Date Action Type Other Due Date Final Number Reason for Date Action Base Date/ Bill Atty Super Atty Atty(s) Date Type Deadline EP 2 REPLY IM EXT 12-Feb-2003 KBB KBB INT 02-Jul-2003 MM Tritle: Comments: Comments: 1 Tritle: Comments: Comments: 1 Tritle: Comments: 1 Tritle: Comments: Comments: 1 Tritle: Comments: Comments: 1 Tritle: Comments: Commen	ruesuay, september 23,	6003	Due Da	te List by	y Chent		•		
Number Reason for Date Action Type Other Due Dated Final Deadline EP 2 REPLY IM EXT 1.2-Feb-2003 KBB KBB INT 02-Jul-2003 Matter Name: Comments: Comments:	Client: <u>50274</u>	H3 Pharma Inc.			#Name?				
Title: Comments: Title: Tit	Matter Number	Reason for Date	4	te/ Bill Atty	Super Atty	Other Atty(s)	Due Date/ Date Type	Final Deadline	Action Taken
TAVMINATION REPORT	EP EP	REPLY IM EXT	12-Feb-2003	КВВ	KBB	TAL I	02-Jul-2003		Met on:
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Page: 36		Action Taken	Met on: Extend to	By:		Met on:	By:				
	•	Final Deadline			•						
		Due Date/ Date Type	02-Jul-2003 Due Date	I		02-Jul-2003 Due Date	ion.	·			
		Other y Atty(s)	ACK			ACK ACK					
y Client	#Name?	Super At	PTC	-	eren	PTC		·			
Date List by Client	۷.	te/ Bill Atty	PTC tification			PTC					
Due Da	#Name?	Action Type Action Base Date/ Bill Atty Super Atty	02-Jul-2003 PTC		·	02-Jul-2003 PTC					
03	Genome Therapeutics	Reason for Date	Response Due	ejeden egheten di taban an erint person e		PCT/RO/105 Notification	to experimentally made attacks and				
Tuesday, September 23, 2003	Client: <u>50285</u>	Matter Number	50285-WO 3	Title:	Matter Name: Comments:	50285 WO 3	Title:	Matter Name: Comments:		•	

Tuesday, September 23, 2003	3, 2003	Due Date List by Client	Page: 37
		#Name? #Name?	
Client: <u>50290</u>	Zimmerman & Partners		
Matter Number	Reason for Date	Action Type Action Base Date/ Bill Atty Super Atty Atty(s) Date Type Deadline	Action Taken
50290- 111 US	1 Fwd. Certificate of Correction	02-Dec-2002 KLE KLE 02-Jul-2003 A SSOCIATE'S LETTER (SUBSTANTIV KLE Reminder	Met on:
Title: Matter Name: Comments:	Title: Vame: nents:		By:

Tuesday, September 23, 2003	2003		Due Date List by Client	st by Cli	ent			Page: 38	1
Client: <u>50291</u>	Neurochem, Inc.	-	#Name?	#Name?	65				ŧ
Matter Number	Reason for Date	< <	Action Type Action Base Date/ Bill Atty Super Atty Atty(s) Date Type	Atty Supe	Other r Atty Atty(Other Due Date/ Atty(s) Date Type	Final Deadline	Action Taken	1 I
50291 US 1	REPLY 3M EXT	C	02-Jan-2003 KLE	E SMM	KH	02-Jul-2003		Met on:	II—
		·	OFFICE ACTION		KH	Final		Extend to	
Ţ	Title:					i.		By:	
Matter Name:		Ter o se e di della d	- C. C. S. C			-			1
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Tuesday, September 23, 2003	003	Due Date List by Client	y Client			Page: 39	
Client: 50308	Oncomab	#Name?	#Name?				
Matter Number	Reason for Date	Action Type Action Base Date/ Bill Atty	Super Atty	Other Due Date/ Atty(s) Date Type	Final Deadline	Action Taken	II.
50308 US 1	APPLICATION .	78-Apr-2003 KBB	KBB JNT	02-Jul-2003 Final		Met on: Extend to	11
Title: M Matter Name: Comments: @				ø		By:	
50308 WO 1	PCT Application Due	^2-Jul-2002 KBB	KBB	02-Jul-2003 · Due Date		Met on:	IC
Title:(Matter Name: Comments:			-			By:	
50308 US 1	APPLICATION	28-Apr-2003 KBB NEW MATTER REQUEST	KBB INT	02-Jul-2003 Final		Met on:	
Matter Name: Comments:						By:	
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